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10/808,166	03/24/2004	Gregory J. Singerle JR.	048556/274149	4837

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EXAMINER	
RUBIN, BLAKE J	

ART UNIT	PAPER NUMBER
2457	

MAIL DATE	DELIVERY MODE
10/30/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/808,166	SINGERLE, GREGORY J.	
	Examiner	Art Unit	
	BLAKE RUBIN	2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 August 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-97* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-97* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to communications filed August 28, 2008.

2. Claims 1-97 are pending in this application. Claims 1, 2, 6, 8, 9, 17, 25, 27, 28, 30, 33, 42, 51, 74, 82, and 90 currently amended. Claims 3-5, 7, 10-16, 18-24, 26, 29, 31, 32, 34-41, 43-50, 52-73, 75-81, 83-89, and 91-97 have been previously presented.

3. This application claims priority to provisional application number 60/457,357 filed March 26, 2003.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-97 are rejected under 35 U.S.C. 102(b) as being anticipated by Gardner (Pub. No. 2002/0013904).

6. With respect to claims 1, 9, 17, 25, 33, 42 and 51, Gardner discloses an apparatus, method and computer program product (paragraph [0025], lines 1-7) comprising:

a processor configured to send and receive (paragraph [0039]), to and from a client (paragraph [0029], line 4, *user*), a set of a plurality of labels identifying a respective plurality of elements of an authentication matrix (paragraph [0026], whereby the "label" is anticipated by

Gardner's "grid references" in line 4, and the "elements of an authentication matrix" are anticipated by Gardner's "particular character"; note that Gardner's use of the terms "table" and "grid" throughout are, hereinafter, equated to the "matrix", see paragraph [0015], lines 3-7), the authentication matrix including a plurality of elements organized in one or more columns and rows each of which includes a respective header (paragraph [0055], lines 3-5), each element being identifiable by a label (paragraph [0027]) including a column header and row header that identifies the respective column and row of the element (paragraph [0055], lines 1-4), the set of labels including the column and row headers of the respective labels being unknown at the client until the set of labels is sent thereto (paragraphs [0061]-[0063], whereby the index within each element [*M**3**D**2**D**1**M**1*= *Month **3rd**, Date **2nd**, Date **1st**, Month **2nd***] is unknown at the client prior to the user being prompted),

wherein the processor is configured to receive a passcode (paragraph [0026], whereby the "passcode" is anticipated by Gardner's VPIN) from the client formulated based upon the elements identified by the received set of labels (paragraph [0027]), and wherein the processor is configured to authenticate the client based upon the formulated passcode (paragraph [0030]).

7. With respect to claims 2, 10, 18, 26, 34, 43 and 52, Gardner discloses the apparatus and method according to claims 1, 9, 17, 25, 33, 42, and 51 respectively, wherein the processor is configured to send a set of labels (paragraph [0061]), receive a formulated passcode (paragraph [0095], lines 1-5) and authenticate the client a plurality of times (paragraph [0096], lines 5-9), and wherein the processor is configured to send each set of labels such that the sent set of labels

differs from each previously sent set of labels (paragraph [0025], lines 1-10, *the required VPIN input code, which varies on each and every occasion of use*).

8. With respect to claims 3, 11, 19, 27, 35, 44, and 53, Gardner discloses the apparatus and method according to claims 1, 9, 17, 26, 33, 42 and 51 respectively, wherein the processor is configured to generate a passcode based upon elements selected from the authentication matrix (paragraph [0026]), wherein the processor is configured to send a set of labels identifying the selected elements (paragraph [0061]), and wherein the processor is configured to authenticate the client further based upon the generated passcode (paragraphs [0085-0086]).

9. With respect to claims 4, 12, 20, 28, 36, 45, and 54, Gardner discloses the apparatus and method and method according to claims 3, 11, 19, 27, 35, 44 and 53 respectively, wherein the processor is configured to provide, to the client, an authentication matrix stored in a database (paragraph [0046]), wherein the processor is configured to generate a passcode based upon elements selected from the authentication matrix stored in the database (paragraph [0085]), and wherein the processor is configured to receive a passcode formulated based upon elements of the authentication matrix provided to the client corresponding to the elements selected from the authentication matrix stored in the database (paragraphs [0045-0048]; Figure 2; paragraph [0086]).

10. With respect to claims 5, 13, 21, 29, 37, 46 and 55, Gardner discloses the apparatus and method according to claims 4, 12, 20, 28, 36, 45, and 54 respectively, wherein the database is

configured to store a plurality of authentication matrices (paragraphs [0049]-[0050]), each authentication matrix associated with a different client (paragraphs [0049]-[0050]), wherein the processor is configured to provide, to the client being authenticated, an authentication matrix associated with the respective client (paragraphs [0049]-[0050]), and wherein the processor is configured to generate a passcode based upon elements selected from the authentication matrix stored in the database and associated with the respective client (paragraph [0038]).

11. With respect to claims 6, 14, 22, 30, 38, 47 and 56, Gardner discloses the apparatus and method according to claims 5, 13, 21, 29, 37, 46 and 55 respectively, wherein the processor is configured to receive at least one piece of identifying information associated with the client being authenticated (paragraph [0038], lines 1-4), and thereafter identify, from the plurality of authentication matrices stored in the database, the authentication matrix associated with the client being authenticated based upon the at least one piece of identifying information (paragraph [0038], lines 1-4), and wherein the processor is configured to generate a passcode based upon elements selected from the identified authentication matrix (paragraphs [0061]-[0062]).

12. With respect to claims 7, 15, 23, 31, 40, 49, and 58, Gardner discloses the apparatus and method according to claims 3, 11, 19, 27, 36, 45 and 54 respectively, the processor is configured to generate a passcode further based upon a personal identification number (PIN) associated with the client (paragraph [0042], lines 1-3), and wherein the processor is configured to receive a passcode formulated further based upon the PIN (paragraph [0027]).

13. With respect to claims 8, 16, 24, 32, 41, 50 and 59, Gardner discloses the apparatus and method according to claims 7, 15, 23, 31, 40, 49 and 58 respectively, wherein the processor is configured to generate a passcode including elements selected from the authentication matrix and the PIN in a variable position with respect to the selected at least one element (paragraph [0061]), wherein the processor being configured to receive a passcode formulated to include the identified elements and the PIN in the variable position with respect to the identified elements, and wherein the processor is configured to authenticate the client by identifying a match between the generated passcode and the formulated passcode (paragraphs [00070], [0074], and [0086]).

14. With respect to claim 60, Gardner discloses the apparatus according to Claim 1, wherein the processor is configured to send a set of labels to the client in response to the client effectuating logging in, logging in including prompting the client for at least one piece of identifying information (paragraph [0041]), and receiving the at least one piece of identifying information from the client, the at least one piece of identifying information comprising a user name and a password (paragraph [0042]) associated with a client user.

15. With respect to claim 61, Gardner discloses the apparatus according to Claim 6, wherein the at least one piece of identifying information received by the processor is capable of identifying the client to an organization independent of the authentication matrix associated with the client (paragraph [0097]; wherein an "organization" is anticipated by a Trusted Third Party acting as an administrator of the prior art system).

16. With respect to claim 62, Gardner discloses the apparatus according to Claim 9, wherein the processor is configured to receive a set of labels in response to the apparatus or user effectuating logging in, logging in including the apparatus or user being prompted for at least one piece of identifying information, and sending the at least one piece of identifying information, the at least one piece of identifying information comprising a user name and a password associated with a client user (paragraphs [0041-0042]).

17. With respect to claim 63, Gardner discloses the apparatus according to Claim 14, wherein the at least one piece of identifying information sent by the processor is capable of identifying the apparatus or user to an organization independent of the authentication matrix associated with the respective apparatus or user (paragraph [0097]; wherein an "organization" is anticipated by a Trusted Third Party acting as an administrator of the prior art system).

18. With respect to claim 64, Gardner discloses the method according to Claim 17, wherein sending a set of labels comprises sending a set of labels in response to effectuating logging in, logging in including prompting the client for at least one piece of identifying information, and receiving the at least one piece of identifying information, the at least one piece of identifying information comprising a user name and password associated with a client user (paragraphs [0041-0042]).

19. With respect to claim 65, Gardner discloses the method of Claim 22, wherein receiving the at least one piece of identifying information comprises receiving at least one piece of

identifying information capable of identifying the client to an organization independent of the authentication matrix associated with the client (paragraph [0097]; wherein an "organization" is anticipated by a Trusted Third Party acting as an administrator of the prior art system).

20. With respect to claim 66, Gardner discloses the computer program product according to Claim 25, wherein the first executable portion is configured to send a set of labels in response to effectuating logging in, logging In including prompting the client for at least one piece if identifying information, and receiving the at least one piece of identifying information, the at least one piece of identifying information comprising a user name and a password associated with a client user (paragraphs [0041-0042]).

21. With respect to claim 67, Gardner discloses the computer program product according to Claim 30, wherein the at least one piece of identifying information comprises received by the sixth executable portion is capable of identifying the client to an organization independent of the authentication matrix associated with the client (paragraph [0097]; wherein an "organization" is anticipated by a Trusted Third Party acting as an administrator of the prior art system).

22. With respect to claim 68, Gardner discloses the apparatus according to Claim 33, wherein the processor is configured to send a set of labels in response to effectuating logging in, logging in including prompting the client for at least one piece of identifying information, and receiving the at least one piece of identifying information, the at least one piece of identifying information comprising a user name and password associated with a client user (paragraphs [0041-0042]).

23. With respect to claim 69, Gardner discloses the apparatus according to Claim 39, wherein the at least one piece of identifying information received by the processor is capable of identifying the client to an organization independent of the authentication matrix associated with the client (paragraph [0097]; wherein an "organization" is anticipated by a Trusted Third Party acting as an administrator of the prior art system).

24. With respect to claim 70, Gardner discloses the apparatus according to Claim 42, wherein the processor is configured to receive a set of labels in response to effectuating logging in, logging in including the apparatus or user being prompted for at least one piece of identifying information, and sending the at least one piece of identifying information, the at least one piece of identifying information comprising a user name and password associated with the user (paragraphs [0041-0042]).

25. With respect to claim 71, Gardner discloses the apparatus according to Claim 48, wherein the at least one piece of identifying information sent by the processor is capable of identifying the apparatus or user to an organization independent of the authentication matrix associated with the apparatus or user (paragraph [0097]; wherein an "organization" is anticipated by a Trusted Third Party acting as an administrator of the prior art system).

26. With respect to claim 72, Gardner discloses the method according to Claim 51, wherein sending a set of labels in response to effectuating logging in, logging in including prompting the

client for at least one piece of identifying information, and receiving the at least one piece of identifying information, the at least one piece of identifying information comprising a user name and password associated with a client user (paragraphs [0041-0042]).

27. With respect to claim 73, Gardner discloses the system according to Claim 57, wherein receiving the at least one piece of identifying information comprises receiving at least one piece of identifying information capable of identifying the client to an organization independent of the authentication matrix associated with the client (paragraph [0097]; wherein an "organization" is anticipated by a Trusted Third Party acting as an administrator of the prior art system).

28. With respect to claims 74, 82, and 90, Gardner discloses the apparatus, method, and computer program for authenticating a user (paragraph [0025], lines 1-7) comprising:

a processor (paragraph [0025], lines 1-3, *Master System*) configured to prompt a user (paragraph [0025], lines 1-3) for at least one piece of identifying information associated with the user (paragraph [0051]), the user being prompted during effectuation of logging in (paragraphs [0041-0042]),

wherein the processor is configured to receive the identifying information in response to prompting the user (paragraph [0040], *be approached by the master system*), wherein the processor receiving the identifying information invokes an authentication procedure (paragraph [0025], lines 1-7), the authentication procedure comprising:

selecting a set of labels identifying respective elements of an authentication matrix (paragraph [0027], *grid reference system*), wherein the authentication matrix

includes a plurality of elements organized in one or more columns and rows each of which includes a respective header (paragraph [0055], lines 1-5), each element being identifiable by a label including a column header and row header that identifies the respective column and row of the element (paragraph [0026], whereby the "label" is anticipated by Gardner's "grid references" in line 4, and the "element of an authentication matrix" is anticipated by Gardner's "particular character");

providing the selected set of labels to the use, the set of selected labels including the column headers and row headers of the respective labels being unknown to the user until the set is provided (paragraphs [0061]-[0063], whereby the index within each element [*M**3**D**2**D**1**M**1*= *Month **3rd**, Date **2nd**, Date **1st**, Month **2nd***] is unknown at the client prior to the user being prompted);

receiving a passcode from the user in response to providing the set of labels (paragraph [0026]), the passcode having been formulated based upon the elements identified by the provided set of labels (paragraph [0027]); and

authenticating the user based upon the received passcode (paragraph [0086]).

29. With respect to claims 75, 83, and 91, Gardner discloses the apparatus, method, and computer program according to claims 74, 82, and 90 respectively, wherein the entity is capable of prompting the user and receiving the identifying information for each of a plurality of instances of logging in, and wherein the entity receiving of the identifying information for each instance invoked the authentication procedure such that the set of labels provided for the

respective instance differs between the set of labels provided for each previous instance (paragraph [0025], lines 1-7).

30. With respect to claims 76, 84, and 92, Gardner discloses the apparatus, method, and computer program according to claims 75, 83, and 91 respectively, wherein the entity receiving of the identifying information of each instance invokes the authentication procedure such that the received passcode is unique to the respective instances (paragraph [0025], lines 1-7).

31. With respect to claims 77, 85, and 93, Gardner discloses the apparatus, method, and computer program according to claims 74, 82, and 90 respectively, wherein the entity is capable of receiving at least one piece of identifying information such that the authentication procedure further comprises: identifying, from a plurality of authentication matrices, the authentication matrix associated with the client being authenticated based upon the at least one piece of identifying information, the selected set of labels identifying elements of the identified authentication matrix (paragraph [101]).

32. With respect to claims 78, 86, and 94, Gardner discloses the apparatus, method, and computer program according to claims 77, 85, and 93 respectively, wherein the at least one piece of identifying information received by the entity is capable of identifying the client to an organization independent of the authentication matrix (paragraph [0097]; wherein an "organization" is anticipated by a Trusted Third Party acting as an administrator of the prior art system).

33. With respect to claims 79, 87, and 95, Gardner discloses the apparatus, method, and computer program according to claims 74, 82, and 90 respectively, wherein the entity is capable of receiving at least one piece of identifying information such that the authentication procedure includes receiving a passcode having been formulated further based upon a personal identification number (PIN) associated with the client (paragraph [0027]).

34. With respect to claims 80, 88, and 96, Gardner discloses the apparatus, method, and computer program according to claims 79, 87, and 95 respectively, wherein the entity is capable of receiving at least one piece of identifying information such that the authentication procedure includes receiving a passcode having been formulated including at least one element selected from the authentication matrix and the PIN in a predefined position with respect to the selected at least one element (paragraph [0070]).

35. With respect to claims 81, 89, and 97, Gardner discloses the apparatus, method, and computer program according to claims 74, 82, and 90 respectively, wherein the identifying information received by the entity comprises a user name and password associated with the user (paragraphs [0041-0042]).

Response to Arguments

36. Applicant's arguments filed August 28, 2008, have been fully considered but they are not persuasive.

37. With respect to claim 1, the applicant argues on page 32 that Gardner does not teach or suggest an apparatus for authenticating a client in which *a set of labels including column/row headers identifying columns/rows of a matrix including elements from which a passcode is formulated are unknown at the client until that set is sent to the client.* The applicant further argues that in every embodiment of Gardner, the user knows upfront the grid references from which the VPIN is derived. It is Gardner's VPIN which anticipated the applicant's *passcode.*

The examiner respectfully disagrees with the applicants arguments. While the Applicant is correct in their interpretation of Gardner's "grid references may relate to such things as Weekday, the Date, the Month the Use number for that day, the Time of day to the last complete hour, or indeed any other method of precisely indicating which grid reference applies to a particular a specific use" as potentially allowing the user to have knowledge of certain column/row headers, that does not preclude Gardner from withholding column/row headers from the user until they are sent. The column/row headers which are unknown to the user are disclosed by Gardner in an example VPIN in paragraph [0062], where Gardner reference a nested column header in order to produce the proper VPIN, *M**3**D**2**D**1**M**1*= *Month **3rd**, Date **2nd**, Date **1st**, Month **2**nd*. Here the nested column header, which for the first digit of the VPIN is the third column of the Month element "48**9**", is unknown to the user until being prompted. The Month element, in this example, "489", can be viewed as a matrix nested within the Calendar matrix of Gardner.

Conclusion

38. This is a Request for Continued Examination (RCE) of applicant's earlier Application No. 10/808,166. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

39. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BLAKE RUBIN whose telephone number is (571) 270-3802. The examiner can normally be reached on M-R: 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

10/15/08

/Rubin Blake/
Examiner, Art Unit 2457

/ARIO ETIENNE/
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